

Honorable Richard A. Jones

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

WILLIAM F. WINGATE,

Plaintiff,

v.

CITY OF SEATTLE, SEATTLE POLICE  
DEPARTMENT AND CYNTHIA A.  
WHITLATCH, in her official and individual  
capacities,

Defendants.

No. 2:15-cv-00822-RAJ

**SECOND AMENDED  
COMPLAINT FOR  
DAMAGES**

**I. PARTIES**

1.1 The plaintiff, William F. Wingate, at all times material hereto, resided in King County, Washington.

1.2 Defendant City of Seattle, Seattle Police Department is a municipal corporation.

Second Amended Complaint for Damages - 1

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1.3 Defendant Cynthia A. Whitlatch was, at all relevant times, a City of Seattle, Seattle Police Department Officer. Officer Whitlatch is named in this lawsuit in her individual and official capacities.

1.4 Defendant Cynthia A. Whitlatch, at all relevant times, resided in King County.

## II. JURISDICTION AND VENUE

2.1 This Court has jurisdiction over the parties and the subject matter of this action by virtue of 42 U.S.C. § 1983, 42 U.S.C. § 1988, RCW 49.60.030, and RCW 2.08.010. Venue is proper pursuant to RCW 4.12.025.

## III. BACKGROUND FACTS

3.1 Plaintiff William F. Wingate is a 70 year old African American man who lives in the Northgate area of Seattle, Washington. Mr. Wingate requires the support of a cane when walking; before being arrested in July 2014, he used a golf club as a cane.

3.2 Defendant Cynthia A. Whitlatch is a Caucasian female City of Seattle Police Officer.

3.3 In 2014, Officer Whitlatch used her personal Facebook social media page, available to the public, to make racially derogatory comments about African Americans, specifically African American men.

3.4 Upon information and belief, Officer Whitlatch refers to African American persons as “niggers.”

3.5 On July 14, 2014, Officer Whitlatch was on duty as a City of Seattle Police Officer. She was driving a Seattle Police Department patrol car.

Second Amended Complaint for Damages - 2

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1           3.6     Officer Whitlatch was driving the patrol car eastbound on East Pike Street in the  
2 Capitol Hill area of Seattle when she spotted Mr. Wingate walking east on East Pike using a  
3 golf club as a cane.

4           3.7     After seeing Mr. Wingate walking peacefully along East Pike Street, Officer  
5 Whitlatch turned on the patrol car dashboard camera. She then turned left from East Pike onto  
6 northbound 11th Avenue East.

7           3.8     Officer Whitlatch drove the patrol car to the corner on which Mr. Wingate was  
8 standing – the northwest corner of 12th Avenue East and East Pike. Upon information and  
9 belief, Officer Whitlatch approached Mr. Wingate because he is an African American man.

10          3.9     Mr. Wingate was standing quietly on the northwest corner waiting for the traffic  
11 light to change intending to continue walking east on East Pike Street. He was leaning on the  
12 golf club with his right hand and he was carrying a small plastic bag in his left hand.

13          3.10    Officer Whitlatch parked the patrol car on 12th Avenue East facing south,  
14 directly in front of Mr. Wingate.  
15

16          3.11    Officer Whitlatch opened her patrol car door, which opened out onto the street.

17          3.12    Officer Whitlatch began yelling at Mr. Wingate to drop his club.

18          3.13    Confused, Mr. Wingate responded that the golf club was his.

19          3.14    From the side of the patrol car, Officer Whitlatch yelled for him to drop the golf  
20 club, claiming that the club was a weapon. She falsely accused Mr. Wingate of swinging the  
21 “weapon” at her after he moved the golf club from one hand to the other.  
22

1           3.15   Officer Whitlatch also falsely accused Mr. Wingate of swinging the golf club at  
2 her while he was walking on East Pike Street and told him that the conduct was captured by the  
3 camera on her patrol car dashboard.

4           3.16   Officer Whitlatch told Mr. Wingate that if he did not drop the “weapon,” she  
5 would call for “backup.” Mr. Wingate responded that she should call for backup because he  
6 had done nothing wrong.

7           3.17   When Officer Chris Coles arrived at the scene on the northwest corner of 12th  
8 Avenue East and East Pike, Officer Whitlatch walked around the front of her patrol car in the  
9 direction of Mr. Wingate while replacing her baton in her service belt.

10           3.18   Mr. Wingate gave the golf club and his plastic bag to Officer Coles when he  
11 requested it.

12           3.19   Officer Coles then searched Mr. Wingate looking for weapons, none of which  
13 were found.

14           3.20   The officers handcuffed Mr. Wingate’s hands behind his back.   Officer  
15 Whitlatch announced to Mr. Wingate that she was placing him under arrest for harassment and  
16 for obstructing a police officer.

17           3.21   Officer Coles and Officer Benjamin Archer then marched the handcuffed Mr.  
18 Wingate on foot to the East Precinct with his hands cuffed behind his back and without the aid  
19 of either his golf club or a cane.

20           3.22   When Officer Coles and Officer Archer reached the East Precinct with Mr.  
21 Wingate, Officer Joe Lam conducted the arrest screening on Mr. Wingate.

1           3.23 Mr. Wingate had walked several miles before being arrested. He repeatedly  
2 requested that he be given some water. The officers refused to give him water. He did not  
3 receive any water until approximately eight hours after he was arrested.

4           3.24 After Officer Lam processed Mr. Wingate's arrest, Officer Campbell escorted  
5 the still handcuffed Mr. Wingate to a transport van. The doorway to the van is approximately  
6 20 inches from the ground.

7           3.25 Mr. Wingate stumbled as he attempted to climb into the van with his hands  
8 cuffed behind his back. Officer Campbell eventually kicked a small step stool from behind the  
9 van for Mr. Wingate to use as a step into the van.  
10

11           3.26 Mr. Wingate sat alone and handcuffed in the van for approximately 20 minutes  
12 as Officer Campbell drove him to the King County Jail.

13           3.27 When Mr. Wingate arrived at the King County Jail, he again was processed. He  
14 then was placed in a cell.

15           3.28 Mr. Wingate spent most of the day and the entire night in a King County Jail  
16 cell.

17           3.29 Officer Whitlatch and Officer Coles made false statements in the police report  
18 filed about the incident involving Mr. Wingate.  
19

20           3.30 After arresting Mr. Wingate, Officer Whitlatch contacted the City of Seattle  
21 Attorney's Office and claimed that Mr. Wingate was "one of the most obstinate, uncooperative,  
22 and obstructive suspects [she had] dealt with in [her] 17+ years in patrol," in an attempt to have  
23 Mr. Wingate charged with Obstructing a Police Officer.

1           3.31 John Mason, the Assistant City Attorney handling the case, responded that the  
2 Obstruction charge was declined because Mr. Wingate was 69 years old and used the golf club  
3 as a cane.

4           3.32 To obtain his release, Mr. Wingate entered into a dispositional continuance on  
5 the charge of Unlawful Use of a Weapon to Intimidate for having a golf club in his hand. The  
6 continuance was dismissed several weeks later by the City Attorney's office.

7           3.33 Before July 9, 2014, Mr. Wingate had no criminal record, had never been  
8 arrested, had never been referred to as a defendant, and had never spent any time in jail.

9           3.34 Mr. Wingate is a military veteran. He spent eight months in the Marine Corp  
10 Reserves before joining the Air Force. He spent four years on active duty in the Air Force, and  
11 more than 15 years in the Air Force Reserves before retiring in 1997.

12           3.35 For approximately 35 years, Mr. Wingate was employed as a bus driver for King  
13 County. During the years he drove a bus, Mr. Wingate developed a collegial relationship with  
14 City of Seattle police officers.

15           3.36 Mr. Wingate is an active member of his church. On the day he was arrested in  
16 July 2014, Mr. Wingate was heading toward The Facts Newspaper office located in the  
17 Madrona area of Seattle. On Wednesdays, Mr. Wingate walked to the Facts office to gather  
18 several newspapers to deliver to fellow church members now living in an assisted living facility.

19           3.37 Mr. Wingate's encounter with Officer Whitlatch and his subsequent arrest and  
20 incarceration have caused him severe emotional distress. Since his arrest, Mr. Wingate has been  
21

1 treated for post-traumatic stress and depression. He is now fearful of police officers he does not  
2 know but whom he encounters in public or at community events.

3 3.38 The Fourth Amendment to the United States Constitution confers an individual's  
4 right to be free of unreasonable search and seizure without probable cause. Officer Whitlatch  
5 deprived Mr. Wingate of his Fourth Amendment rights because she had no reasonable suspicion  
6 to stop him and no probable cause to believe that he had committed a crime.

7 3.39 Officer Whitlatch's stop and arrest of Mr. Wingate constituted false arrest and  
8 false imprisonment in violation of the Fourth Amendment to the United States Constitution.

9 3.40 As a City of Seattle Police Officer, Officer Whitlatch was acting under color of  
10 law when she deprived Mr. Wingate of his rights under the Fourth Amendment to the United  
11 States Constitution.  
12

13 3.41 The Equal Protection Clause of the Fourteenth Amendment to the United States  
14 Constitution confers an individual's right to be free of race discrimination. Officer Whitlatch's  
15 racist conduct toward Mr. Wingate deprived him of his constitutional equal protection rights.  
16

17 3.42 As a City of Seattle Police Officer, Officer Whitlatch was acting under color of  
18 law when she deprived Mr. Wingate of his rights under the Fourteenth Amendment to the  
19 United States Constitution that provides for equal rights of all persons.

20 3.43 Officer Whitlatch's conduct toward Mr. Wingate violated his federal statutory  
21 rights to be free of race discrimination.

22 3.44 Officer Whitlatch was acting in both her official and individual capacities when  
23 she unlawfully stopped and arrested Mr. Wingate on July 9, 2014.  
24



1 statutory civil rights and was committed by Officer Whitlatch under color of law in violation of  
2 42 U.S.C § 1983.

3 4.7 Defendant Whitlatch's conduct is an abridgement of plaintiff's Fourth  
4 Amendment Rights to the Constitution of the United States and was committed by Officer  
5 Whitlatch under color of law in violation of 42 U.S.C. § 1983.

6 **V. RELIEF REQUESTED**

7 5.1 The plaintiff hereby realleges the substance of sections I, II, III, and IV and by  
8 this reference incorporates them herein.

9 5.2 Because of the defendants' wrongful acts described above, the plaintiff has  
10 suffered substantial humiliation, mental and emotional distress, and other damages to be proved  
11 at trial.  
12

13 WHEREFORE, Plaintiff respectfully requests this Court grant him relief, including:

- 14 a. Emotional distress, pain and suffering, and any medical expenses flowing  
15 therefrom, and damages to be proved at trial;  
16  
17 b. Special damages in an amount to be proved at trial;  
18  
19 c. Punitive damages;  
20  
21 d. The plaintiff's reasonable attorney fees pursuant to RCW 49.60.030(2) and 42  
22 U.S.C. § 1988;  
23  
24 e. Costs of suit as provided by RCW 49.60.030(2) and 42 U.S.C. § 1988;  
25  
26 f. Prejudgment interest at the highest lawful rate;  
g. Tax consequences; and,

1           h.       Such other and further relief as the Court may deem just and equitable.

2                               DATED this 4th DAY OF August, 2015.

3  
4                               s/ Susan B. Mindenbergs

5                               Susan B. Mindenbergs

6                               WSBA No. 20545

7                               Attorney for Plaintiff William F. Wingate

8                               LAW OFFICE OF VONDA M. SARGENT

9                               s/ Vonda M. Sargent

10                              Vonda M. Sargent

11                              WSBA No. 24552

12                              Attorney for Plaintiff William F. Wingate